

loan closing and title clearance process.

(i) *Special provisions.* Closing agents are responsible for having current knowledge of the requirements of State law in connection with loan closing and title clearance and should advise the agency of any changes in State law which necessitate changes in the agency's State mortgage forms and State Supplements.

(j) [Reserved]

§ 1927.55 Title clearance services.

(a) *Responsibilities of closing agents.* Services to be provided to the agency and the borrower by a closing agent in connection with the transaction vary depending on whether a title insurance policy or title opinion is being furnished. The closing agent is expected to perform these services without unnecessary delay.

(b) [Reserved]

(c) *Ordering title services.* Application for title examination or insurance will be made by the borrower to a title company or attorney. The lender's policy will be for at least the amount of the loan. The United States of America will be named as the insured lender.

(d) *Use of title opinion.* If a title opinion will be issued, a title examination will include searches of all relevant land title and other records, so as to express an opinion as to the title of the property and the steps necessary to obtain the appropriate title and security position to issue a title opinion as required by this subpart. The closing agent or approved attorney will determine:

(1) The legal description and all owners of the real property;

(2) Whether there are any exceptions affecting the property and advise the approval official and borrower of the nature and effect of outstanding interests or exceptions, prior sales of part of the property, judgments, or interests to assist in determining which exceptions must be corrected in order for the borrowers to obtain good and marketable title of record in accordance with prevailing title examination standards, and for the agency to obtain a valid lien of the required priority;

(3) Whether there are outstanding Federal, State, or local tax claims (in-

cluding taxes which under State law may become a lien superior to a previously attaching mortgage lien) or homeowner's association assessment liens;

(4) Whether outstanding judgments of record, bankruptcy, insolvency, divorce, or probate proceedings involving any part of the property, whether already owned by the borrower, or to be acquired by assumption or with loan funds, or involving the borrower or the seller exist;

(5) If a water right is to be included in the security for the loan, and if so, the full legal description of the water right;

(6) In addition to paragraph(d)(2) of this section, if wetlands easements or other conservation easements have been placed on the property;

(7) What measures are required for preparing, obtaining, or approving curative material, conveyances, and security instruments, and

(8) That sufficient copies of these interests and exceptions are provided as requested by the approval official.

(e) *Use of title insurance.* When title insurance is to be obtained, the approval official will be furnished with a title insurance binder disclosing any defects in, exceptions to, and encumbrances against, the title, the conditions to be met to make the title insurable and in the condition required by the agency, and the curative or other actions to be taken before closing of the transaction. The binder must include a commitment to issue a lender policy in an amount at least equal the amount of the loan, except in instances where there may be an outstanding owner's policy in favor of the borrower. Notwithstanding the provisions of this section, the instance of an assumption without a subsequent loan, the existing policy may be continued if the coverage meets or exceeds the assumption balance and the title company agrees in writing to extend coverage in full force and effect.

(f) [Reserved]

§ 1927.56 Scheduling loan closing.

The agency, in coordination with the closing agent, will arrange a loan closing and send loan closing instructions, on an agency form to the closing agent

when the agency determines that the exceptions shown on the preliminary title opinion or title insurance binder will not adversely affect the suitability, security value, or successful operation of the property and all other agency conditions to closing have been satisfied.

§ 1927.57 Preparation of closing documents.

(a) *Preparation of deeds.* The closing agent, unless prohibited by law, will prepare, complete, or approve documents, including deeds, necessary for title clearance and closing of the transaction and provide the agency with the policy of title insurance or title opinion providing the lien priority required by the agency and subject only to exceptions approved by the agency. Agency forms will be used when required by this part.

(1)–(2) [Reserved]

(b) *Preparation of mortgages.* The closing agent will insure that all mortgages are properly prepared, completed, executed, and filed for record. Where applicable, the mortgages should recite that it is a purchase money mortgage. The following requirements will be observed in preparing agency mortgages:

(1)–(8) [Reserved]

(9) *Alteration of mortgage form.* An agency mortgage form may be altered pursuant to a State Supplement having prior approval of the National Office, or in a special case, to comply with the terms of loan approval prescribed in accordance with program instructions. No other alterations in the printed mortgage forms will be made without prior approval of the National Office. Any changes made by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the mortgage.

(10) [Reserved]

(11) *Mortgages on leasehold estates.* When the agency security interest is a leasehold estate, unless State law or State Supplement otherwise provides, the real estate mortgage or deed of trust form, available in any agency office, will be modified as follows:

(i) In the space provided on the mortgage for the description of the real property security, the leasehold estate

and the land covered by the lease must be described. The following language must be used unless modified by a State Supplement:

All of borrower's right, title, and interest in and to a leasehold estate for an original term of ____ years, commencing on ____, 19 ____, created and established by and between ____ as lessor and owner and ____ as lessee, including any extensions and renewals thereof, a copy of which lease was recorded or filed in book ____, page ____, as instrument number ____, in the Office of the (e.g., County Clerk), for the aforesaid county and State and covering the following real property: ____.

(ii) Immediately preceding the covenant starting with the words "should default," the following covenant will be added:

() Borrower covenants and agrees to pay when due all rents and any and all other charges required by said lease, to comply with all other requirements of said lease, and not to surrender or relinquish, without the Government's prior written consent, any of borrower's right, title, or interest in or to said leasehold estate or under said lease while this mortgage remains of record.

(12) *Mortgages on land purchase contract.* When the agency security interest is on a borrower's interest in a land purchase contract, OGC will provide language used to modify agency forms.

(13) [Reserved]

(c) [Reserved]

(d) *Preparation of protective instruments.* The closing agent will properly prepare, complete, and approve releases and curative documents necessary for title clearance and closing, in recordable form and record them if required.

(1) *Prior lienholder's agreement.* If any liens (other than agency liens or tax liens to local governmental authorities) or security agreements (hereafter called "liens"), with priority over the agency mortgage will remain against the real property securing the loan, the lienholders must execute, in recordable form, agreements containing all of the following provisions unless prior approval for different provisions has been obtained from the National Office:

(i) The prior lienholder shall agree not to declare the lien in default or accelerate the indebtedness secured by the prior lien for a specific period of